

COUNTY OF KAUAI

Minutes of Meeting

OPEN SESSION

Board/Commission		LIQUOR CONTROL COMMISSION	Meeting Date	September 20, 2018
Location	Mo'ikeha Building, Liquor Control Conference Room 3		Start of Meeting: 4:03 p.m.	End of Meeting: 4:53 p.m.
Present	Chair William Gibson; Vice Chair Paul Endo; Members: Shirley Akita, Jean Iida, Gerald Matsunaga, Maryanne Kusaka Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Cameron Takamura			
Excused	Gary Pacheco			
Absent				

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Gibson called the meeting to order at 4:03 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of Agenda		Mr. Matsunaga moved to approve the agenda. Mr. Endo. Motion carried 6:0.
Approval of Minutes	<u>APPROVAL OF MEETING MINUTES:</u> Open Session minutes of September 6, 2018 Commissioner Matsunaga noted corrections to be made from Page 3 on to change the votes from 7:0 to 6:0 as he left the meeting after the hearing for Kiawe Roots. Commissioner Endo noted a correction to be made on the End of Meeting time on Page 1.	Ms. Akita moved to approve the Open Session minutes of August 16, 2018 with corrections. Mr. Matsunaga seconded the motion. Motion carried 6:0.
1. Violation Hearing	<u>MONICO'S TAQUERIA:</u> Violation of HRS 281-31 Licenses, classes. Ms. Kathleen Hernandez-Martinez, owner, was present; no counsel. The licensee admitted to the charges. Ms. Hernandez-Martinez explained that they had a new server that night who	

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	gave the patron's husband an empty cup, not thinking about what it was for. Since then, they have had additional training of their staff to ensure they are aware of the rules.	Mr. Matsunaga moved that a fine of \$250 be imposed. Ms. Iida seconded the motion. Motion carried 6:0.
<p>2. Public Hearing</p>	<p>a) <u>HEALTHY HUT</u>: Application No. 2018-157 was filed on June 8, 2018 by Healthy Foods LLC dba Healthy Hut for a New Retail Dealer General license at 4480 Hookui Road, Kīlauea, Kauai, Hawaii. The Commission accepted Application No. 2018-157 for publication and public hearing on July 19, 2018 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesdays, July 25 & August 1, 2018, scheduling the public hearing on September 20, 2018 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Mo'ikeha Building, 4444 Rice Street, Līhu'e, Kauai, Hawaii.</p> <p>Mr. Scott Nemeroff, owner, was present. Mr. Nemeroff noted a small correction to be made in the Investigator's report to reflect their hours of operation as 7:30 a.m. to 9:30 p.m.</p> <p>The public hearing for Application No. 2018-157 was closed.</p>	<p>Ms. Akita moved to approve Application No. 2018-157. Ms. Iida seconded the motion. Motion carried 6:0.</p>
	<p>b) <u>KAUAI DISTILLING COMPANY</u>: Application No. 2019-002 was filed on July 12, 2018 by LBD Coffee, LLC dba Kauai Distilling Company for a New Wholesale Dealer General license at 6200 Kawaihau Road, Unit B, Kapaa, Kauai, Hawaii. The Commission accepted Application No. 2019-002 for publication and public hearing on July 19, 2018 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesdays, July 25 & August 1, 2018, scheduling the public hearing on September 20, 2018 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Mo'ikeha Building, 4444 Rice Street, Līhu'e, Kauai, Hawaii.</p>	

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	<p>At the time of the public hearing, the Department received one (1) letter in support, and six (6) letters in opposition.</p> <p>The licensee was represented by Mr. Tai Erum, Manager, and Jacob Delaplane, Attorney.</p> <p>The Commission received public testimony from Stuart Graham, Andrew Ward, Muriel Morgan, Les Gale, and Nellie Bunao.</p> <p>Mr. Erum provided some clarification on the type of license they are applying for at this site, which will involve only storage and distribution of their product, which will be distilled and bottled out of state. There will be no retail sales at the site. If they wish to change the class of license, they would need to go through the entire application and public hearing process all over again.</p> <p>Mr. Delaplane stated that they sent public hearing notices to all property owners within the 100' radius, and to two-thirds of the all property owners within a 500' radius. The Commission questioned whether or not the applicant had met the two-thirds requirement, noting the list the applicant provided has 25 properties of record, but only 13 letters were mailed out. Mr. Delaplane explained that some of the individual properties were CPR's on one lot, and fall under one owner, and his interpretation of HRS 281-57 is that only one letter needed to be mailed to the owner of the lot and not the individual properties. Deputy County Attorney Cameron Takamura stated he would research further into HRS 281-57 and consult with his counterparts to determine the law's intent.</p> <p>In response to concerns raised by the members of the public, Mr. Erum explained that this site will only be for storage and distribution to other</p>	

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	<p>licensed businesses via UPS delivery trucks, as is currently done for their tobacco and coffee products. There will not be any kind of retail sales happening there. There will be no distilling activity happening at the site at all, and all distilling and bottling will be done in Washington. While the company's goal is to eventually have the product made in Kauai, until they are able to do so, the creation and packaging of the product will be done out-of-state.</p> <p>Mr. Delaplane acknowledged the importance of having good communication with the neighbors, and stated that they tried to address all the concerns with the letter they mailed out. He also offered to speak further with anyone who wanted additional information whether they were in the radius or not.</p>	
Executive Session	<p><u>EXECUTIVE SESSION:</u></p> <p>Pursuant to Hawai'i Revised Statutes §§92-4 and 92-5 (a) (4) the purpose of this executive session is to consult with the Commission's legal counsel on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities as they may relate to this item, deliberate and take such action as appropriate.</p>	<p>Ms. Kusaka moved to enter into Executive Session. Ms. Akita seconded the motion. Motion carried 6:0.</p>
Return to Open Session	<p>Because the Commission was unclear about whether or not the applicant has met the two-thirds mailing requirement for the property owners within the 500' radius, the Commission requested that Attorney Takamura and Director Rapozo consult with their counterparts to make a determination on the interpretation of the two-thirds law.</p>	<p>The meeting resumed in Open Session at 5:34 p.m.</p> <p>Mr. Matsunaga moved to close the public hearing to allow the Commission 90 days to hold a meeting to render a final decision on Application No. 2019-002. Ms. Akita seconded the motion. Motion carried 6:0.</p>

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	<p>Mr. Delaplane pointed out that this action would mean that if it is found that the applicant is not in compliance with the law, there will be no opportunity to correct that. He requested a continuance to allow the applicant to send out notices to all the property owners on the list provided.</p> <p>The Commission agreed that should the hearing be continued, a new public hearing noticed would be placed in the newspaper as well as be mailed out by the applicant to all property owners and lessees of record within the 500' radius.</p>	<p>Ms. Akita moved for a reconsideration of the previous motion. Ms. Iida seconded the motion. Motion carried 6:0.</p> <p>Mr. Matsunaga moved to close the public testimony portion of the hearing, and continue the public hearing on December 6, 2018. Ms. Iida seconded the motion. Motion carried 6:0.</p>
<p>3.</p>	<p><u>DIRECTOR'S REPORTS:</u></p> <p>a) <u>INVESTIGATOR'S REPORTS:</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <p>(1) From Avid Marketing Group</p> <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <p>(1) To Avid Marketing Group</p> <p>(2) To All Wholesale Licensees, Re: New Liquor License Kiawe Roots; Cancellation of Temporary and Transfer of Liquor License Ishihara Market</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment "A"</p>	

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	e) <u>ACTIONS OF THE DIRECTOR:</u> (1) PRINCEVILLE WINE MARKET (2) SAFEWAY LIHUE (3) ROB'S GOOD TIMES GRILL (4) WRANGLER'S RESTAURANT (5) INTERCRUISES SHORESIDE & PORT SERVICES f) <u>INFORMATIONAL MATTERS:</u>	 Ms. Akita moved to approve Items 3(a) through f. Mr. Endo seconded the motion. Motion carried 6:0.
4.	<u>CANCELLATION OF TEMPORARY LIQUOR LICENSE:</u> <u>ISHIHARA MARKET:</u> Effective September 12, 2018, cancellation of Temporary License No. T 2019-01 issued to The Kalama Beach Corporation dba Ishihara Market.	 Ms. Akita moved to approve the cancellation of temporary license T 2019-01. Mr. Endo seconded the motion. Motion carried 6:0.
Announcements	Next Scheduled Meeting: Thursday, October 4, 2018 – 4:00 p.m., Mo'ikeha Building, Meeting Room #3.	
Adjournment		Chair Gibson adjourned the meeting at 4:53 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
William Gibson, Chair

() Approved as circulated.

() Approved with amendments. See minutes of _____ meeting.